IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3904 OF 2006

Mr. C.K. Balan ..Petitioner

Vs.

P.K. Dharmpalan and Ors. ..Respondents

Mr. Ajay Panickar for petitioner.

CORAM: B.H. MARLAPALLE, J.

Date : July 24, 2006.

P.C.:

1. Heard Mr. Panickar the learned counsel for the petitioner who had filed Misc. Application No.33 of 2005 in Dispute No.98 of 1992 pending before the 4th Co-operative Court at Mumbai seeking permission to dispose off his Flat No.B-5. The said application came to be rejected on 21/3/2006.

2. The petitioner is 72 years of age and suffering from serious medical ailments. As per him his wife also is a patient and all his three sons are staying away. Under these circumstances he needs to sell Flat No.B-5 which is part of the respondent no.2-Co-operative Housing Society at Mahalaxmicaves

Road, Mumbai.

3. However, in Writ Petition No..2386 of 1992, this court by an order dated 10/11/1992 directed that during the pendency of Dispute No.98 of 1992 none of the flats shall be alienated and following this order, the learned Judge of the Co-operative Court held that he could not grant any permission to sell the flat of the petitioner.

4. No doubt, the petitioner's cause may be genuine to dispose off Flat No.B-5 and at the same time the Co-operative Court cannot be faulted in passing the impugned order dated 21/3/2006. The learned counsel for the petitioner states that the pending dispute has not reached even the stage of evidence as the issues have not been framed during the last about 14 years or so. It would be imperative that the said dispute is heard and decided within a fixed period and on its own merits, more so when all the members seem to be in an advanced age or at least most of them.

5. Hence, it is directed that Dispute/Case No.98 of 1992 presently pending before the 4th Co-operative Court at Mumbai be heard and decided on its own merits as expeditiously as possible but in any case by 31st March, 2007. Framing of issues shall be finalised before 15th August, 2006. If the next date is given in the said dispute is not before 15th August, 2006, the petitioner shall appear before the Co-operative Court No.4 by 28th July 2006 and submit an application to list the dispute for orders before 11th August, 2006 and with the same application an authenticated copy of this order be annexed.

6. Petition disposed off in terms of the above orders.

(B.H. Marlapalle,J.)